



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,547	01/22/2002	Bernard A. Traversat	5681-07000	8857

7590 12/06/2006
Robert C. Kowert
Conley, Rose, & Tayon, P.C.
P.O. Box 398
Austin, TX 78767

EXAMINER

SERRAO, RANODHI N

ART UNIT PAPER NUMBER

2141

DATE MAILED: 12/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/055,547

Applicant(s)

TRAVERSAT ET AL.

Examiner

Ranodhi Serrao

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20,22-81 and 83-99 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20,22-81 and 83-99 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

1. Applicant's arguments, see remarks, filed 13 November 2006, with respect to the rejection(s) of claim(s) 1-20, 22-81, and 83-99 under 35 U.S.C. have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of newly found prior art reference(s). See below rejections.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

Art Unit: 2141

3. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

4. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-20, 22-81, and 83-99 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-61, 1-40, 1-71, 1-203, 1-116, and 1-111 of copending Application No. 10/055649, 10/055645, 10/055741, 10/055641, 10/055662, 10/055773, 10/054809, and 10/164259 respectively. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons:

6. Taking claim 1 as an exemplary claim, the instant application contains the subject matter claimed in the '259 application. As per claim 1, the applications are claiming common subject matter, as follows:

A peer-to-peer network environment, comprising:

a plurality of peer groups...;

a plurality of peer nodes...;

a subset of said plurality of peer nodes...;

Art Unit: 2141

wherein each peer group...;

wherein a plurality of members...;

The claims of '259 application do not specifically state discovery protocol as described in the claims of the instant application but it would have been obvious to a person skilled in the art to recognize that the mechanism for discovering peer nodes of '259 application is the similar in functionality to the discovery protocol of the instant application because it would enable peer nodes to discover, communicate, and access resources or services of other peer nodes.

7. As per independent claims 1, 20, 39, 50, 61, 70, 80, 86, 90, 96, 97, 98, and 99, they are also directed to the same subject matter recited in claim 1 above. Accordingly, they are provisionally rejected under the judicially created doctrine of obviousness-type double patenting.

8. As per dependent claims 1, 2-19, 22-38, 40-49, 51-60, 62-69, 71-79, 81, 83-85, 87-89, and 91-95, they depend on the rejected claims. Accordingly, they are rejected under the judicially created doctrine of obviousness-type double patenting.

9. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

10. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Art Unit: 2141

11. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rochberger et al. (6,456,600) and Weisman et al. (2002/0112058).

12. As per claim 39, Rochberger et al. teaches a peer node, comprising: a processor; a network interface operable to couple the peer node to a network (see Rochberger et al., col. 2, lines 24-35); a memory operable to store program instructions, wherein the program instructions are executable by the processor to: create an advertisement for a peer group in accordance with a protocol (see Rochberger et al., col. 11, line 58-col. 12, line 29), wherein said advertisement for the peer group comprises: an identifier for the peer group (see Rochberger et al., col. 9, lines 24-43); and a membership service advertisement indicating how other peers may request to join the peer group (see Rochberger et al., col. 9, line 66-col. 10, line 6). But fails to teach a description of a common set of services to be instantiated within the peer group by members of the peer group; and publish at least a portion of said advertisement for the peer group including said identifier and said membership service advertisement. However, Weisman et al. teaches a description of a common set of services to be instantiated by peer nodes or devices (see Weisman et al., ¶ 36); and publish at least a portion of said advertisement for the peer devices including said identifier and said membership service advertisement (see Weisman et al., ¶ 34). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Rochberger et al. to a description of a common set of services to be instantiated by peer nodes or devices; and publish at least a portion of said advertisement for the peer devices including said identifier and said membership service

Art Unit: 2141

advertisement in order to provide services for software and devices on a computer to expose themselves as controlled devices per a peer networking protocol (see Weisman et al., ¶ 5).

13. Claims 40-41, 43-45 rejected under 35 U.S.C. 103(a) as being unpatentable over Rochberger et al. and Weisman et al. as applied to claim 39 above, and further in view of McCanne et al. (6,415,323).

14. As per claim 40, Rochberger et al. and Weisman et al. teach the mentioned limitations of claim 39 above but fail to teach a peer node, wherein said advertisement for the peer group further comprises a name associated with the peer group. However, McCanne et al. teaches a peer node, wherein said advertisement for the peer group further comprises a name associated with the peer group (see McCanne et al., col. 18, lines 25-48). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Rochberger et al. and Weisman et al. to a peer node, wherein said advertisement for the peer group further comprises a name associated with the peer group in order to provide a comprehensive redirection system for content distribution in a virtual overlay broadcast network (OBN) (see McCanne et al., col. 3, lines 36-54).

15. As per claims 41 and 43-45, the above-mentioned motivation of claim 40 applies fully in order to combine Rochberger et al., Weisman et al. and McCanne et al.

Art Unit: 2141

16. As per claim 41, Rochberger et al., Weisman et al., and McCanne et al. teach a peer node, wherein said name associated with the peer group is obtained from a centralized naming service coupled to the network, so that said name associated with the peer group is unique within the network (see McCanne et al., col. 9, lines 28-47).

17. As per claim 43, Rochberger et al., Weisman et al., and McCanne et al. teach a peer node, wherein said advertisement for the peer group further comprises a description of an initial service to be instantiated by other peer nodes when joining the peer group (see McCanne et al., col. 13, line 65-col. 14, line 32).

18. As per claim 44, Rochberger et al., Weisman et al., and McCanne et al. teach a peer node, wherein said program instructions are further executable to instantiate a membership service, wherein said membership service implements a membership protocol for joining said peer group such that any peer node may apply for membership in said peer group in accordance with the membership protocol (see McCanne et al., col. 19, lines 44-48).

19. As per claim 45, Rochberger et al., Weisman et al., and McCanne et al. teach a peer node, wherein said membership service implements a membership policy for said peer group restricting which peers are allowed to join said peer group (see McCanne et al., col. 19, lines 44-48).

20. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rochberger et al. and Weisman et al. as applied to claim 39 above, and further in

Art Unit: 2141

view of Dutta et al. (2002/0073075). Rochberger et al. and Weisman et al. teach the mentioned limitations of claim 39 above but fails to teach a peer node, wherein said advertisement for the peer group further comprises keywords for use in indexing and discovering the peer group. However, Dutta et al. teaches a peer node, wherein said advertisement for the peer group further comprises keywords for use in indexing and discovering the peer group (see Dutta et al., ¶ 83). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Rochberger et al. and Weisman et al. to a peer node, wherein said advertisement for the peer group further comprises keywords for use in indexing and discovering the peer group in order for augmenting conventional search engine results with peer-to-peer search results (see Dutta et al., abstract).

21. Claims 48 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rochberger et al. and Weisman et al. as applied to claim 39 above, and further in view of Zhang (6,810,259).

22. As per claim 48, Rochberger et al. and Weisman et al. teaches the mentioned limitations of claim 39 above but fails to teach a peer node, wherein said common set of services are shared with other members of said peer group only, so that said peer group defines a limited domain of availability for said services. However, Zhang teaches a peer node, wherein said common set of services are shared with other members of said peer group only, so that said peer group defines a limited domain of availability for said services (see Zhang,

Art Unit: 2141

col. 17, lines 44-55). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Rochberger et al. and Weisman et al. to a peer node, wherein said common set of services are shared with other members of said peer group only, so that said peer group defines a limited domain of availability for said services in order to provide structure on the network operating in accordance with the DCS protocol (see Zhang, col. 12, lines 8-32).

23. As per claim 49, Rochberger et al. and Weisman et al. teaches the mentioned limitations of claim 39 above but fails to teach a peer node, wherein said common set of services implements a protocol for joining and leaving said peer group, wherein said protocol is platform independent as to programming language implementations and network transport for said common set of services. However, Zhang teaches a peer node, wherein said common set of services implements a protocol for joining and leaving said peer group, wherein said protocol is platform independent as to programming language implementations and network transport for said common set of services (see Zhang, col. 19, lines 9-35). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Rochberger et al. and Weisman et al. to a peer node, wherein said common set of services implements a protocol for joining and leaving said peer group, wherein said protocol is platform independent as to programming language implementations and network transport for said common set of services in order to provide structure on the

Art Unit: 2141

network operating in accordance with the DCS protocol (see Zhang, col. 12, lines 8-32).

24. Claims 86-89 and 98 have similar limitations as to claims 39-45, 48, and 49; therefore, they are being rejected under the same rationale.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ranodhi Serrao whose telephone number is (571)272-7967. The examiner can normally be reached on 8:00-4:30pm, M-F.

Art Unit: 2141

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571)272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


RUPAL DHARIA
SUPERVISORY PATENT EXAMINER